

the de minimis rule. Similarly, I shall also assume in favour of the minister, again without deciding the point, that a 'fresh order' within the meaning of s 7B(2) means any of the orders categorized under s 7B(1), so that the minister has the power, *provided he complies with the necessary conditions precedent*, to substitute as he did in the present case, a detention order for a restriction order.

I now come to the heart of the present application: can the minister revoke a restriction order and substitute for it a detention order without first complying with the requirements of s 3(1)?

Briefly, s 3(1) requires that a suspected person in respect of whom a police officer has reason to believe there are grounds which would justify detention under s 4(1), shall first be detained pending enquiries for a period not exceeding 60 days. It was said that this would necessitate police investigations, including the interviewing of witnesses and, more importantly, of the arrested person who would thus be afforded the opportunity of being heard and so perhaps, exculpating himself, yet the affidavit evidence filed on behalf of the minister showed that these requirements were never observed. It was pointed out that upon cancellation of the restriction order, the applicant was ten minutes thereafter placed under custody, not for purposes of the enquiries envisaged under s 3(1), but purely for purposes of being served with the detention order which was in fact done five minutes subsequently.

It is obvious that the substitution of a detention order for a restriction order meant that whereas previously the applicant's liberty had been merely curtailed it was now wholly taken away. That power resides in the minister to do so I have no doubt, but to exercise it, it is essential that he acts within the four corners of the Ordinance.

In my view, the requirements of s 3(1) are mandatory and not merely directory, so that the applicant was entitled to the safeguard of enquiries upon detention, yet he was denied that right, with the consequence that he had lost the chance that was fairly open to him in law of exculpating himself from the allegations made against him.

As I said in *Koh Yoke Koon v Minister for Home Affairs & Anor*:⁴ '... in a matter concerning the liberty of the subject — always a priceless asset — the court should walk very warily, preferring to interpret words and phrases in their ordinary and natural meaning than to embark on inferences or speculations about such a power'. I am fortified in this by the following dictum of Pollock CB in *Bowditch v Balchin*⁵ cited with approval by Lord Wright in *Barnard v Gorman*⁶ at p 393: 'In a case in which the liberty of the subject is concerned, we cannot go beyond the natural construction of the statute.'

A The result, therefore, is that although I am completely convinced, having regard to the contents of his affidavit (encl 8), that the minister had acted as he did, in good faith, in the interest of public order and although it is not open to me to consider either the question whether there was reasonable cause to make the detention order or the protestations of innocence of the applicant (see *Karam Singh v Menteri Hal Ehwal Dalam Negeri, Malaysia*⁷ — now given statutory force), I am satisfied that there had been here a breach of the fundamental right guaranteed under art 5(1) of the Federal Constitution and so I have no discretion, but to grant this application. It follows that the applicant must be set at liberty forthwith and I so order.

C *Application allowed.*

Solicitors: *Karpal Singh & Co.*

Reported by *Zarinah Marican*

MBF Finance Bhd v Pendaftar Hakmilik Negeri Perak & Anor

E HIGH COURT (IPOH) — ORIGINATING MOTION
NO 25-1-90
PEH SWEE CHIN J
30 MAY 1990

F *Land Law — Priority — Indefeasible interests — Restraints against dealings — Charge created over lands — Registrar's caveat entered subsequently at request of Inland Revenue — Income tax owing — Whether chargee's interest subject to claim by Inland Revenue — National Land Code 1965, ss 320(i)(ba) & 340*

G The applicant, who was the chargee of certain lands, applied for the removal of a registrar's caveat lodged by the first respondent at the behest of the second respondent, who was the Director General of Inland Revenue. The applicant also sought a declaration that the applicant's right as chargee ranked in priority to that of the second respondent. The charge in favour of the applicant was registered on 11 August 1983. The owners of the lands owed the sum of \$315,000 in income tax to the Inland Revenue. The registrar's caveat was entered on 22 October 1985 following a written request on behalf of the second respondent dated 10 October 1985 for the purpose of making the lands available to satisfy the income tax liability.

H It was submitted that the first respondent had a quasi-judicial function to perform and had acted mala fide in entering the caveat as he should have noticed the registered charge. It was also submitted that the second respondent had no registrable interest in the lands and that he had not proceeded to take action with haste as the caveat functioned like an interim injunction.

I It was, inter alia, submitted for the second respondent that there was a conflict between s 340 of the National Land Code 1965 (dealing with indefeasibility of title) and s 320(1)(ba) of the Code and that s 320(1)(ba) having been enacted later in time it prevailed over s 340. It was also submitted for the second respondent that the application was barred by the Public Au-

thorities Protection Act 1948 having regard to the fact that three years had expired before the application was made. It was said for the applicant that they were not notified of the registrar's caveat.

Held, allowing the application:

(1) Section 320(1)(ba) of the Code undoubtedly creates an express statutory right for any government department in respect of any debt due to it from a land owner to request a Registrar of Titles to enter a registrar's caveat, and the registrar, in exercising his quasi-judicial discretion, cannot refuse to enter a registrar's caveat on the ground that the debt would not come within the meaning of the word 'interest' in s 320(1) of the Code.

(2) The words of para (ba) of s 320(1) of the Code are plain and unambiguous. It is quite impossible for such words to create any real interest in land or such interest as is recognized by the Code, though they create a statutory right to have a registrar's caveat entered.

(3) The onus would be on the caveator, and in the instant case, the party in the shoes of a caveator, who had requested the registrar to enter a registrar's caveat for his benefit, to satisfy the court that on the evidence presented to it, it did raise a serious question to be tried as to his claim to an interest in land as recognized by the Code. The first hurdle against the second respondent desirous of having the caveat remaining on the register proved to be insurmountable for no interest of that kind had been created by para (ba) of s 320(1).

(4) Assuming that the arrears of income tax did create an interest (though there was nothing of the kind), such interest in any event would have to give way to the prior interest of the registered chargee in this case.

(5) The submission that s 340 of the Code should be overridden by para (ba) of s 320(1) of the Code, the latter being the later enactment, to make sense would depend only on a premise which did not exist, ie the premise that para (ba) of s 320(1) had created some interest in land not only recognized by the Code but also expressly or by some irresistible implication provided by it to override all interests in the land, whether prior or subsequent ones.

[Bahasa Malaysia summary]

Pemohon yang merupakan pemegang caj beberapa bidang tanah yang tertentu memohon untuk mengeneipkan satu caveat pendaftar yang dimasukkan oleh responden pertama atas permintaan responden kedua, Pengarah Hasil Dalam Negeri. Pemohon juga meminta satu deklarasi bahawa hak pemohon sebagai pemegang caj mengatasi hak responden kedua. Caj bagi pihak pemohon telah didaftarkan pada 11 Ogos 1983. Tuan punya tanah-tanah itu berhutang kepada Jabatan Hasil Dalam Negeri cukai sebanyak \$315,000. Kaveat pendaftar telah dimasukkan pada 22 Oktober 1985 berikutan dengan satu permintaan bertulis bagi pihak responden kedua bertarikh 10 Oktober 1985 bagi tujuan memastikan bahawa tanah-tanah itu sedia untuk membereskan tanggungan cukai.

Telah diujjikan bahawa responden pertama mempunyai fungsi kuasi-kehakiman untuk dijalankan dan telah bertindak mala fide dalam memasukkan kaveat itu kerana beliau sepatutnya mengambil notis tentang caj berdaftar itu. Juga diujjikan bahawa responden kedua tidak mempunyai kepentingan atas tanah-tanah itu yang boleh didaftar dan bahawa beliau tidak mengambil tindakan dengan cepat kerana kaveat berfungsi seperti satu injunksi interim.

Antara lain telah diujjikan bagi pihak responden kedua bahawa terdapat konflik antara s 340 Kanun Tanah Negara 1965

A (tentang hakmilik yang tidak boleh disangkal) dan s 320(1)(ba) Kanun itu dan bahawa s 320(1)(ba) yang diperundangkan terkemudian mengatasi s 340. Juga diujjikan bagi responden kedua bahawa permohonan itu dihalang oleh Akta Perlindungan Pihak Berkuasa Awam 1948 memandangkan yang tiga tahun telah luput sebelum permohonan dibuat. Telah disebutkan bagi pemohon bahawa ia tidak diberitahu tentang kaveat pendaftar itu.

B

Diputuskan, meluluskan permohonan itu:

(1) Seksyen 320(1)(ba) Kanun itu dengan tidak syak lagi membuat satu hak statutori nyata bagi apa-apa jabatan kerajaan bersangkutan dengan sebarang hutang kepadanya daripada seorang tuan punya tanah untuk meminta Pendaftar Hamilik memasukkan kaveat pendaftar, dan pendaftar itu, dalam menjalankan fungsi kuasi-kehakimannya, tidak boleh enggan memasukkan kaveat pendaftar itu atas alasan bahawa hutang itu tidak termasuk di bawah maksud perkataan 'interest' dalam s 320(1) Kanun itu.

C

(2) Perkataan-perkataan perenggan (ba) s 320(1) Kanun itu adalah jelas dan tidak kabur. Adalan mustahil untuk perkataan-perkataan sebegini untuk mencipta sebarang kepentingan yang sah atas tanah atau kepentingan yang diiktiraf oleh Kanun itu, walaupun mereka mencipta hak statutori untuk memasukkan kaveat pendaftar.

D

(3) Adalah kawajipan pengkaveat, dan dalam kes ini, pihak yang mengambil kedudukan pengkaveat, yang telah meminta pendaftar untuk memasukkan kaveat pendaftar bagi faedahnya, untuk memuaskan mahkamah bahawa mengikut keterangan yang dikemukakan, satu soalan yang serius untuk dibicarakan telah ditampilkan berkenaan tuntutan ke atas kepentingan atas tanah itu seperti yang diiktiraf oleh Kanun itu. Halangan yang pertama yang dialami oleh responden kedua yang ingin mengekalkan kaveat dalam daftar itu tidak dapat diatasi kerana tidak ada kepentingan jenis itu yang dicipta oleh perenggan (ba) s 320(1).

E

(4) Andainya tunggakan cukai pendapatan ada mencipta satu kepentingan (walaupun tidak ada kepentingan jenis itu), kepentingan sebegini harus memberi jalan kepada kepentingan terdahulu pemegang caj berdaftar dalam kes ini.

F

(5) Supaya hujah bahawa s 340 Kanun itu harus diatasi oleh perenggan (ba) s 320(1) Kanun itu kerana s 320(1)(ba) diperundangkan terkemudian membawa makna, ia bergantung kepada asas yang tidak wujud, iaitu asas bahawa perenggan (ba) s 320(1) telah mencipta suatu kepentingan atas tanah yang bukan sahaja diiktiraf oleh Kanun itu tetapi secara nyata atau secara implikasi yang tidak terbatas diperuntukkan oleh Kanun itu untuk mengatasi semua kepentingan atas tanah, samada terdahulu atau terkemudian.]

H

[Editorial Note: The respondents have appealed to the Supreme Court vide Civil Appeal No 01-42-90.]

Cases referred to

- 1 *Registrar of Titles, Johore v Temenggong Securities Ltd* [1976] 2 MLJ 44 (refd)
- I 2 *Eng Mee Yong & Ors v V Letchumanan* [1979] 2 MLJ 212 (folld)
- 3 *Bank Bumiputra Malaysia v Mahmud bin Mohd Din (Datin Hajjah Salma bte Md Famin, Intervener)* [1989] 1 MLJ 381 (refd)

Legislation referred to

Estate Duty Enactment 1941 s 25(1)
National Land Code 1965 ss 320(1)(ba), 340

Selvanathan for the applicant.

Azman bin Husin (Assistant to the State Legal Adviser, Perak) for the first respondent.

Mohd Bazain bin Idris (Senior Federal Counsel) for the second respondent.

Cur Adv Vult

Peh Swee Chin J: This case involved the interpretation of s 320 of National Land Code 1965 (hereafter 'the Code') amended by Act A444 of 1979 which added, effective from 15 February 1979, a new paragraph to s 320(1) and numbered as para (ba). Section 320 as amended is set out below:

(1) Subject to sub-section (2), a Registrar's caveat may be entered in respect of any land wherever such appears to the Registrar to be necessary or desirable —

- (a) for the prevention of fraud or improper dealing; or
- (b) for protecting the interest of —
 - i) the Federation or the State Authority, or
 - ii) any person who is in his opinion under the disability of minority, mental disorder or unsoundness of mind, or is shown to his satisfaction to be absent from the Federation; or

(ba) for securing that the land will be available to satisfy the whole or part of any debt due to the Federation or the State Authority, whether such debt is secured or unsecured and whether or not judgment thereon has been obtained; or

(c) by reason of some error appearing to him to have been made in the register or issue document of title to the land or any other instrument relating thereto.

(2) Knowledge by the Registrar of the fact that any land or interest therein has been acquired, or is to be held, by any person or body in a fiduciary capacity shall not of itself constitute a ground for entering a Registrar's caveat in respect of that land.

The applicant or rather the plaintiff, (hereafter called 'the chargee') sought to remove a registrar's caveat lodged by the first respondent or rather the first defendant at the behest of the second respondent, or rather the second defendant (both defendants hereafter called 'the registrar', and the 'Director General' respectively), claiming also a declaration of the chargee's right ranking in priority to that of the Director General.

It could not be seriously disputed from the charge documents exhibited in evidence that the chargee was the registered chargee of the two pieces of land in question (hereafter 'the said lands'), there being only a mere denial by the Director General. The relevant charge was registered on 11 August 1983, for securing a loan of \$800,000.

The owner of the said lands, which were so charged, owed \$315,000 in income tax to the Inland Revenue. A letter dated 10 October 1985 on behalf of the Director General was sent to the registrar with a request to enter a registrar's caveat in respect of the said lands and the registrar duly entered it on 22 October 1985.

A Learned counsel for the chargee cited *Registrar of Titles, Johore v Temenggong Securities Ltd.*¹ submitting that the registrar had a quasi-judicial function to perform and had acted mala fide in entering the impugned caveat as he should have noticed the registered charge. It was submitted that his decision 'would undermine the economic foundation of this country for no bank would accept any more land as security'.

B On the issue of priority under the amended s 320, learned counsel submitted that the Director General had no registrable interest in the said lands. By way of comparison of income tax with estate duty, s 25 of the Estate Duty Enactment 1941 was cited which I set out below:

(1) Unless and until it is paid or otherwise satisfied, any estate duty payable upon any property passing on the death of a person to his executor or being under the control of such executor shall be a first charge on such other property and in either case any such estate duty shall be deemed to be a charge in respect of a sum already due and payable on demand together with interest accruing as provided in this Enactment: Provided that no property shall be so charged as against a bona fide purchaser thereof or in priority to a charge thereof or in priority to a holder of a lien thereover for valuable consideration and without notice:

D Provided further that the burden of proving that any property comes within the provisions of the preceding proviso shall be on any persons interested to deny the existence or priority of the charge by this subsection imposed on such property.

E (ii) At any rate after any estate duty has become a charge on property the title whereof is registered in any Registry of Titles or Land Office the Collector may certify the amount of such estate duty under his hand and official seal together with particulars of the document or documents of title to the property on which such estate duty is charged and may present such certificate to the proper registering authority who shall notwithstanding anything in the National Land Code contained thereupon himself make a memorial of the charge upon the register document of title to such property and such charge shall notwithstanding anything in the National Land Code contained, take priority of all other charges affecting such property registered or presented for registration or liens created under the National Land Code or otherwise subsequently to the death of the deceased.

G It was further submitted that the Director General as a caveator did not proceed to take action with haste as the caveat functioned like an interim injunction.

H In reply, learned senior federal counsel submitted that as a result of the decision of Privy Council in *Temenggong*,¹ which held to the effect that the Inland Revenue Department had no interest in the land to support a registrar's caveat there, s 320 was therefore amended to include the new para (ba) as set out above. The entry by the registrar of the caveat was therefore not mala fide and he had not exceeded his power.

I It was further submitted that the Director General had priority over the chargee and the court therefore could

not disturb the order of the registrar in entering the caveat.

It was further submitted that there was a conflict between s 340 of the Code (dealing with indefeasibility of title) and s 320(1)(ba) and s 320(1)(b), having been enacted later in time, prevailed over s 340.

It was lastly submitted that though on the one hand, there was no time limit to recover income tax for the Inland Revenue, the present action by the chargee on the other hand was barred by the Public Authorities Protection Act 1948 having regard to the fact that the registrar's caveat was lodged on 22 October 1985 (the motion here was filed on 13 January 1990), and therefore three years had expired.

Learned counsel for the chargee submitted that his client had not been served with copy of the registrar's caveat; and could not be in a position to know about it. With this the court agreed.

In my view, the only issue was who had priority over the other, ie as between the chargee and the Director General.

It was the case of the Director General that, the amended s 320 had clothed the Director General with such priority over the chargee. Let me examine the section, especially para (ba). The new para (ba) very obviously enables the Director General to request the registrar to enter a registrar's caveat, for the arrears of income tax, to quote: '... whether such debt is secured or unsecured and whether or not judgment thereon has been obtained'.

It will be remembered that the Privy Council in *Temenggong*¹ has held that the arrears of income tax did not create such an interest in land as was recognized by the Code for the Inland Revenue Department to lodge a caveat, but was merely an unsecured civil debt, which, until converted into a judgment debt, had no right over the property of the debtor (the tax payer there).

Thus the new para (ba) undoubtedly creates an express statutory right for any government department such as the Inland Revenue Department, in respect of any debt due to it from a land owner to request a Registrar of Titles to enter a registrar's caveat, and the registrar, in exercising his quasi-judicial discretion described by Lord Diplock in *Temenggong*,¹ can no longer in my view, rely on the decision of the *Temenggong*,¹ in refusing to enter a registrar's caveat on the ground that the debt would not come within the word 'interest' in s 320(1) of the Code. In view of the wording of the new para (ba), the registrar has no longer any discretion in refusing to enter such a caveat. It brings to mind some legislation in some sort of analogical mould, eg Essential (Protection of Depositions) Regulations 1986 which enable the Bank Negara or Central Bank to petition to court for the winding-up of a deposit-

A taking company though not being one of a recognized group of petitioners such as a contributory, creditor etc. The Bank Negara, though qualified to petition for such winding-up obtains no interest of any kind for itself in the assets of the company.

B It would be necessary to construe the new para (ba) for its true effect.

At paras 855-857 of 44 *Halsbury's Laws of England* (4th Ed) at p 522 it states:

C 855 Statutes and other documents construed alike. The canons of construction with regard to statutes do not, in effect, differ from those applicable to all documents.

D 856 Ascertaining the intention of Parliament. The object of all interpretation of a written instrument is to discover the intention of the author as expressed in the instrument. The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute, considering it as a whole and in its context. This intention, and therefore the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous, be applied as they stand, however strongly it may be suspected that the result does not represent the real intention of Parliament.

E 857 Construction where statute is unambiguous. If the words of a statute are clear and unambiguous, they themselves indicate what must be taken to have been the intention of Parliament, and there is no need to look elsewhere to discover their intention or their meaning.

F Thus, if the words of the new para (ba) are plain and unambiguous, it would neither be legitimate nor necessary to look elsewhere for their meaning. They are plain and unambiguous. Apart from creating an ad hoc statutory right to insist on the registrar entering a registrar's caveat, I find it quite impossible for them to create any real interest in land or such interest as is recognized by the Code, though they create a statutory right to have a registrar's caveat entered. They do not create any charge or lease. In this connection, s 25(1) of the Estate Duty Enactment 1941 expressly creates a charge for estate duty owing to the Collector of Estate Duty, subject to a proviso expressly providing that no property shall be so charged against a bona fide purchaser, or in priority to a charge etc. Paragraph (ba) of the Code, by comparison, patently fails to create a charge. Neither do I think that the words can even create a prohibitory order which is entered pursuant to a judgment. The tax liability, not yet converted into a judgment, can give rise to no right to apply to any court for a prohibitory order.

I Applying the test laid down by Privy Council in *Eng Mee Yong & Ors v V Letchumanan*,² the onus would be for the caveator, and in the instant case, the party in the shoes of a caveator, who had requested the registrar to enter a registrar's caveat for his benefit, ie the Director General to satisfy this court that on the evidence presented to it, it did raise a serious question to be tried as to his claim to an interest in land as recognized by the Code.

The first hurdle against the Director General desirous of having the caveat remaining on the register proved to be insurmountable for no interest of the kind has been created by the new para (ba).

Assuming for the sake of argument that the arrears of income tax did create an interest in land (though there is nothing of the kind) such interest in any event would have to give way to the prior interest of the registered chargee in this case. The registered charge created an indefeasible title against all the subsequent holders of interests in the said lands except for a few exceptions set out under s 340 of the Code which did not apply to the instant case: please see *Bank Bumiputra Malaysia v Mahmud bin Mohd Din (Datin Hajjah Salma bte Md Jamin, Intervener)*.³

In this connection, learned senior federal counsel's submission that s 340 of the Code should be overridden by the new para (ba), the latter being the later enactment, to make sense, could depend only on the premises which did not exist, ie the premise that para (ba) had created some interest in land not only recognized by the Code, but also expressly or by some irresistible implication provided by it to override all interests in the land, whether prior or subsequent ones. The new paragraph could never aspire to achieve such strange result; if it could, it would indeed be mind-boggling to think that the principle of indefeasibility of title as enshrined in s 340 of the Code, forming the main pillar of the Torrens System, would be swept away thereby for the purpose of s 320 of the Code.

In the absence of the said premise, I could find no conflict between s 340 and the new para (ba) of s 320 of the Code such that the new paragraph, being a later enactment, prevailed over the s 340.

It would seem idle if I am to give further views by assuming the creation of some nondescript interest in land by the new para (ba).

I therefore granted an order in terms of the motion, ie ordering the removal of the registrar's caveat in question, etc. I further ordered the second defendant (the Director General) to pay costs but made no order of costs against the first defendant (the registrar).

Application allowed.

Solicitors: *Kean Chye & Sivalingam.*

Reported by *PS Ranjan*

A **Pendakwa Raya v Fraser & Neave (M) Sdn Bhd**

HIGH COURT (SHAH ALAM) — ULANGBICARA JENAYAH
BIL 51-230-87
SHANKAR J
29 DECEMBER 1989

B *Criminal Law — Strict liability — Sale of bottled drink containing spurious matter — Whether offence is one of strict liability — Defence that all reasonable steps taken to ensure sale of article would not constitute offence — Sale of Food and Drugs Ordinance 1952, ss 11(1)(g), (4), 17 & 21*

C *Evidence — Onus of proof — Whether offence is one of strict liability — Defence that all reasonable steps taken to ensure sale of article would not constitute offence — Balance of probabilities — Sale of Food and Drugs Ordinance 1952, ss 11(1)(g), (4), 17 & 21*

D Mrs S bought two crates of aerated water from a convenience store in Petaling Jaya. They were labelled with the defendant's labels. A few days later Mrs S noticed some foreign matter in the bottle as she was about to open it and she took it to the MPPJ and made a report to the health inspector. It was found that the matter was a cluster of dead ants covered with saprophytic fungal growth inside the bottle. The lip of the bottle was also found to be slightly chipped. There was no fizz when the bottle was opened.

E The retail shop did not buy from the defendant but bought it from a third party who was not called to give evidence. The defendant relied on a system they had which showed that it was not possible for a chipped bottle or the most tenacious colony of ants to survive the process they had. The magistrate was satisfied that reasonable steps had been taken to prevent an offence and acquitted the defendant. The prosecution appealed.

F **Held**, dismissing the prosecution's appeal:

(1) Section 11(1)(g) of the Sale of Food and Drugs Ordinance 1952 ('the Ordinance') has some similarity in wording to s 3(1) of the English Food and Drugs Act 1938 ('the Act') but s 4(1)(4) of the Act which provides a defence in the UK and s 21 of the Ordinance are very differently worded. The English offence was one of strict liability because that is the effect of the words in the English statute. Extraneous matter in food does not create criminal liability in the UK only if its presence is an unavoidable consequence of the process of collection or preparation. Section 21 of the Ordinance states that whilst it is no defence that the defendant did not act wilfully, it is a defence if he can prove that he took all reasonable steps to ascertain that the sale of the article would not constitute an offence against the

H Ordinance.

(2) Section 11(1) of the Ordinance creates an offence against any person who sells the article. There was no evidence that F & N had sold this bottle of soda. Besides to charge a person with manufacturing and selling in the same charge would appear to make for duplicity.

I (3) As the number of manufacturers of spurious goods have significantly increased in the past 28 years, a bottle may be genuine but its contents may not have originated from the manufacturer's factory. Consequently in such cases it makes sense to investigate the whole line of people involved in the selling of the spurious article and charge them unless they can show that what they sold was something which had originated from the manufacturer. There was however no evidence in this case to show that it originated from the manufacturer.